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ABSTRACT

This report reviews briefly some advantages and disadvantages of collective bargaining in higher education. Advantages discussed include: efficiency, equality of power, legal force, impasse resolution, communication, understanding the institution, resolution of individual problems, definition of policy, rights guarantee, faculty compensation, self-determination, administrative evaluation, younger faculty, minorities, institutional loyalty, educational policy, competitive power, consistency of service, strengthening collegiality, and increased executive authority. Some disadvantages include increased costs, loss of flexibility, inappropriateness of job actions, increased bureaucracy, unfavorable power shifts, increased adversary relationships, increased demands on faculty, diminished university autonomy, resort to exaggeration and emotions, loss of student representation, standardized pay, funding problems, loss of some diversity, involuntary contributions, loss of traditional faculty rights, loss of self-determination, loss of self-governance, loss of full participation of faculty, and credibility. Some advantages and disadvantages are presented from both the union member's viewpoint as well as from the administrator's viewpoint where applicable. A 9-item bibliography is included. (MJM)

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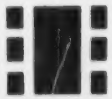

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SPECIAL REPORT #1

SOME SUGGESTED ADVANTAGES AND DISADVANTAGES OF COLLECTIVE BARGAINING*

There has been a great deal of speculation about the effects of collective bargaining on colleges and universities. Because of the unique characteristics of higher education, collective bargaining in academic institutions may have special advantages and disadvantages.

The bulk of longitudinal experience with collective bargaining has been in industry. Academic collective bargaining is a recent phenomenon, and there are very few reliable studies of its actual impact on academic life and governance.

This report, addressed primarily to those unfamiliar with collective bargaining in higher education, reviews briefly some advantages and disadvantages, as seen by a variety of observers. One should bear in mind that in the absence of extensive experience and research the pros and cons listed below reflect opinions rather than established fact. Furthermore, the Academic Collective Bargaining Information Service is neutral on the desirability of collective bargaining, and does not attempt to judge the relative merits of the opinions expressed. Each of the points obviously has a counter argument. For a more complete discussion, the reader is referred to a selected bibliography on the last page.

George W. Angell
Director

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SOME SUGGESTED ADVANTAGES

From Union Members' Viewpoints

1. Efficiency. Collective bargaining is more efficient in representing faculty positions than some faculty or university senates. Often senate decision-making processes are ill-defined. Decisions are slow in coming, and the collegial process can be delayed interminably by administrative delay.

2. Equality of Power. Under collective bargaining faculty power increases and tends to approach equality with administrative power in areas covered by the bargaining contract. The union can demand agreed-upon performances from the administration, and when lacking, grievances can be promptly initiated and processed without undue administrative delay or interference.

3. Legal Force. Unlike traditional university policies and procedures, collective bargaining contracts carry the force of law. Their provisions cannot be ignored, changed informally or unilaterally by the administration. Provisions of the contract take precedence over trustee or administrative policies and regulations.

From Administrators' Viewpoints

1. Efficiency. Faculty members and senates will often continue to argue a situation months and years after administrative decision. Under collective bargaining, the case is submitted to an efficient negotiation or grievance system designed to include an objective third party analysis when appropriate. As soon as a case is submitted to grievance, people generally stop talking about it and await a formal final decision.

2. Equality of Power. Under collective bargaining, faculty members in public institutions are generally prohibited from using the weapon of strike or, in those states where permitted, the strike can only be called after extensive impasse procedures have been employed and/or a strike has been approved by an appropriate court. Administrators generally feel that a more favorable, reasoned resolution of issues can be achieved when the threats of strike and lockout are removed. Private colleges under NLRB jurisdiction do not have this advantage. In either case, administrators are protected from unfair union practices.

3. Legal Force. Negotiated contracts carry the force of law. Administrators appreciate the fact that favorable grievance decisions carry the finality of law proceedings and cannot be contested by long drawn out harassing tactics often used in the '60's. In addition, most chief administrators employ legal assistants specifically trained to handle grievances in an equitable objective manner, greatly reducing the administrator's time and emotional strain.

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SUGGESTED ADVANTAGES (continued)

4. Impasse Resolution. Collective bargaining laws usually contain impasse procedures. Various methods, including the use of outside mediators and fact-finders may be used to resolve bargaining conflict. Under such procedures, the administration cannot simply veto the recommendations of the faculty, or refuse to attend meetings called for the purpose of settling broad concerns of faculty.

4. Impasse Resolution. Collective bargaining laws ordinarily contain impasse procedures which include the use of outside mediators and fact-finders. Most administrators welcome professional outside assistance because their most important objective is to keep the institution operating smoothly and effectively, without much concern as to "who wins or loses" a particular argument. Impartial third parties help to clarify management, as well as faculty rights and thus aid the administrator to obtain an early equitable resolution of each problem.

5. Communication. The requirement that both parties bargain in good faith facilitates better communication between faculty and administration. A continuous and meaningful dialogue is ordinarily guaranteed by the law. Information must be shared under the terms of most labor laws. Salary, fringe benefits, and other conditions of employment become matters of frank and open discussion. Furthermore, the bargaining process assures that differences between administratively announced policy and actual practice do not escape full discussion.

5. Communication. The requirement that both parties bargain in good faith can facilitate better communication between faculty and administration especially when the union genuinely represents the broad opinion of faculty. A continuous and meaningful dialogue is ordinarily guaranteed by the law. Information must be shared under the terms of most labor laws. Salary, fringe benefits, budgets, and other conditions of employment become matters of frank and open discussion. Administrators generally feel that when faculty members know the facts of a situation they are less susceptible to rumor, innuendo, and false charges initiated by chronic complainers.

6. Understanding the Institution. The process of collective bargaining usually leads to better understanding of the workings of the institution. In the course of lengthy discussions on matters of mutual concern, each party comes to better understand the needs and constraints of the other. Moreover, in quantifying and setting priorities on those needs and constraints during the bargaining process, each party comes to be familiar with the financial and policy constraints required for viability of the institution.

7. Individual Problems. Collective bargaining provides a mechanism for the resolution of individual problems. It is said that under traditional academic government, individual faculty concerns may be inefficiently or inadequately

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SUGGESTED ADVANTAGES (continued)

7. (continued) reviewed. Under grievance procedures specified in a legal contract, such concerns are more likely to be brought forward, clarified, and resolved in a thorough and just manner.

8. Definition of Policy. Collective bargaining fosters definition of administrative policy and procedure. The latitude for administrative judgment is usually clarified and defined, especially in personnel decisions. This puts everyone on notice as to what to expect and when. Administrative decisions are then processed more even-handedly throughout the campus or system.

9. Rights Guarantee. The written contract which results from bargaining usually guarantees many employee rights. Personnel procedures, including grievance procedures, are well defined and have a legal and binding effect. Disputes are not subject to the final interpretation of an administrator, but that of an impartial third party, such as a state labor relations board or a court of law. This procedure minimizes the abuse of administrative power.

7. (continued) reviewed. Under grievance procedures specified in a legal contract, such concerns are more likely to be brought forward, clarified, and resolved in a thorough and just manner. A chief administrator, having spent much time trying to remedy the effects of incorrectly processed decisions by one or two sub-administrators, welcomes three types of relief: 1) more care and fewer errors in procedure by sub-administrators, 2) impartial review of grievance will be scheduled by his legal counsel and not by him, 3) he is no longer expected to be blindly "loyal" to his sub-administrators and to departmental committees and back their decisions regardless of errors in procedure or poor judgment.

8. Definition of Policy. Collective bargaining fosters definition of administrative policy and procedure. The latitude for administrative judgment is usually clarified and defined, especially in personnel decisions. This puts everyone on notice as to what to expect and when. Executives usually appreciate the regularization of personnel decisions because many grievances arise from departments and divisions insisting on freedom to act in their own way and time. Uniformity in personnel procedures usually increases efficiency without loss of basic freedoms or flexibility of operation.

9. Rights Guarantee. The written contract which results from bargaining usually guarantees management rights. Administrators appreciate the fact that their right to take effective action in areas often challenged by "chronic complainers" are sustained both by a contract and by impartial grievance reviews. In other words, management rights become more widely understood and less open to challenge.

SUGGESTED ADVANTAGES (continued)

10. Faculty Compensation. Collective bargaining has produced notable gains in faculty compensation in some areas of the country.

10. Faculty Compensation. Collective bargaining usually increases faculty salaries and administrative funds for selective merit increases. This helps the institution to retain its more effective faculty members and to attract higher caliber candidates for vacancies.

11. Self-determination. Collective bargaining usually increases the faculty member's responsibility in decisions about his or her own career (in such matters as fringe benefits, salary, appointment, promotion, sick leave, tenure, work load, working conditions, etc.).

11. Self-determination. Collective bargaining usually increases the faculty's collective responsibility in decisions about such matters as fringe benefits, salary, appointment, promotion, sick leave, tenure, work load and working conditions. In the long run, this may decrease faculty complaints about "administrator's" decisions with a corresponding decrease in campus tensions.

12. Administrative Evaluation. In certain situations, collective bargaining may diminish the role of merit increases in faculty compensation. Merit adjustments may be less favored or actually eliminated under the contract. Increases are thereafter given for experience on the job. Performance evaluations become somewhat less important. Standardized salaries will help eliminate petty jealousies among faculty members, since all will be treated alike.

12. Administrative Evaluation. The administration can openly bargain for merit pay increases and many current contracts include provision for the administration to distribute merit pay based on faculty performance. This strengthens the administrator's ability to reward and retain outstanding faculty members with the support of the union-backed contract. It also requires systematic performance evaluation of faculty members. On the other hand, should an administrator dislike merit increases, he can bargain for uniform pay schedules, usually with the backing of the union.

13. Younger Faculty. Younger faculty members view collective bargaining as a method to protect their access to promotion and continuing pay increases. In a traditional system, senior faculty exercise greater power than their numbers might warrant. But unionism is a system of one man, one vote. If their numbers are substantial, young faculty gain power through the vote.

13. Younger Faculty. Since administrators are traditionally responsible for innovation that secures institutional visibility and viability, and since younger faculty are ordinarily more interested in change, most administrators welcome full participation by younger faculty especially in years when the effect of "steady-state staffing" sharply reduces the number of new young voices among

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SUGGESTED ADVANTAGES (continued)

13. (continued). the faculty. Administrators are not agreed, however, as to whether or not collective bargaining actually increases participation by the young.

14. Minorities. Collective bargaining helps women and minorities by fostering an equal pay schedule; by devising effective grievance procedures; standardizing performance evaluation procedures; standardizing other job-oriented policies and procedures such as recruitment and appointment, dismissal or non-retention, promotion and tenure. In addition, institutions, by law, are not permitted to bargain with unions which practice discrimination in any form. In short, collective bargaining procedures and contracts provide an effective weapon to help enforce equal opportunity laws and regulations.

15. Institutional Loyalty. The collective bargaining process gives faculty greater decision-making power within the institution. This will hopefully foster increased identification with university goals and policies, since the faculty role in formulating such goals is guaranteed.

16. Educational Policy. Collective bargaining, where collegial governance has been weak, will place more responsibility for internal educational matters in the hands of the faculty who are the educational experts.

16. Educational Policy. Collective bargaining, where collegial governance has been weak, will place more responsibility for internal educational matters in the hands of the faculty who are the educational experts. Most administrators prefer this arrangement since bargaining supports their right to approve or veto faculty decisions, as well as to make decisions relative to new programs and budgetary support for existing programs. Internal "educational" decisions are often controversial among competing departments, as well as between faculty and student interests (e.g., policies regarding degree requirements). Many administrators prefer to leave such debates to the interested parties, while retaining the privilege of chief mediator and adjudicator.

17. Competitive Power. With regard to public institutions, unionization enables faculty to compete more successfully with other public agencies and services for available tax funds. Other public employees are likely to be already unionized and in a strong competitive position. In private institutions, unionization may help the faculty to persuade Trustees and administrators to give faculty salaries a higher priority in budgeting available funds.

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SUGGESTED ADVANTAGES (continued)

18. Consistency of Service. Collegial governance and individual bargaining only serve effectively when there is a shortage of scholars such as in the '60's. Collective bargaining can protect the interests of faculty even when there is a shortage of jobs.

19. Strengthening Collegiality. Union contracts can strengthen collegial governance by specifying subjects and procedures of consultation and agreement prior to administrative action.

18. Increased Executive Authority. Collective bargaining usually decreases power of trustees since they must delegate considerable authority to administrators at the bargaining table. In addition, contracts often specify a mechanism for day-to-day negotiations relative to interpretation of broad contract provisions. This tends to centralize authority, to strengthen the chief executive's hand in daily decision-making, and to increase operational efficiency.

SOME SUGGESTED DISADVANTAGES

From Faculty Members' Viewpoints

1. Increased Costs. Union dues are a burden to most faculty members. Costs range as high as 1% of salary.

2. Loss of Flexibility. Individual faculty lose their ability to negotiate their own salaries, leaves, hours and grievances because unions usually require considerable conformity. Unions, at times, feel compelled to discipline individual members for poor performance, giving the faculty member an additional boss.

From Administrators' Viewpoints

1. Increased Costs. Collective bargaining significantly increases institutional costs. A new bureaucracy is needed to back up the negotiating team and to administer the contract. This would include labor relations experts, legal counsel, hearing officers, statisticians, and so on. Bargaining also takes considerable time of university academic and business officers without reducing their normal workloads.

2. Loss of Flexibility. Once a collective bargaining contract has been signed, the reference point of all contract-related policies, procedures, and grievances become the contract. Institutional flexibility and administrative decision-making power may be weakened.

SUGGESTED DISADVANTAGES (continued)

3. Inappropriateness of Job Actions. Job actions (e.g., strikes, sick-ins, etc.) are considered by many professionals to be inappropriate in the collegial community of higher education and such actions will seldom be supported by them. Strikes are also prohibited by many states. This leaves a union without benefit of a major bargaining weapon and offers little improvement over collegial governance bargaining power.

4. Increased Bureaucracy. A new and larger bureaucracy, the centralization of power at the bargaining table, and the new detailed contractual procedures may have a homogenizing and standardizing influence on the campus. This is antithetical to the purposes of higher education, which attempts to foster diversity of views and approaches. This also can affect the ability of departments, divisions and faculties to use different personnel requirements, standards and approaches in serving differing clienteles.

3. Inappropriateness of Job Actions. Aggressive unions have, under certain conditions, promoted strikes, inflammatory articles in union newspapers, boycotting of faculty meetings, etc., to promote union goals. Use of such weapons promotes campus controversy and adversarial relationships which in turn may decrease institutional efficiency, integrity, and viability.

4. Increased Bureaucracy. A new and larger bureaucracy, the centralization of power at the bargaining table, and the new detailed contractual procedures may have a homogenizing and standardizing influence on the campus. This is antithetical to the purposes of higher education, which attempts to foster diversity of views and approaches. When a bargaining unit includes several campuses, the individual campus often loses its ability to bargain contracts that meet needs of its special faculties, programs, location, clientele, size, etc.

5. Unfavorable Power Shifts. Collective bargaining brings about shifts in power within institutions. For example, where the union is dealing with the same or similar issues, the role of the faculty senate can be jeopardized. In addition, under an increasing centralization of procedures and policy formulation, the traditional independence, pluralism and power of departments may be altered. Moreover, administrators may be required to act more like management, exercising powers of supervision and control more like their industrial counterparts to be certain that contract provisions are adhered to.

6. Increased Adversary Relationships. Collective bargaining often becomes an adversarial approach to decision-making. Such an approach derives from industrial models or organizations which may not be appropriate for colleges and universities. Under such models, educational policy may become the result of tense compromise negotiation, involving a combination of financial, governance, and educational issue, rather than scholarly decision-making in an atmosphere of academic freedom.

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SUGGESTED DISADVANTAGES (continued)

7. Increased Demands on Faculty. Future salary increases for faculty may only be gained "in return for" increased "productivity." For example, trustees or state governments may bargain or impose increased work load requirements and limit research facilities, sick leave, and sabbaticals.

8. Diminished University Autonomy. In the case where the funding agent is external to the institution - a state government for example - it is argued that there is a tendency for the governmental agent to deal directly with the union in negotiation. Indeed, this is sometimes written into the law. This not only weakens institutional autonomy, but may destroy the effective role of trustees in university governance. This could put the entire concept of collegial governance in jeopardy.

9. Resort to Exaggeration and Emotions. Exaggerated claims and emotional demands from both sides of the table are ordinarily part of the bargaining process. Such claims are not consonant with the aims of higher education which has the traditional duty to foster a regard for truth and to avoid advocacy.

10. Loss of Student Representation. Students may become casualties at the bargaining table. Ordinarily they do not participate in collective bargaining discussions, and student welfare may be partially sacrificed in the course of negotiation. Increases in faculty compensation and improvements in working conditions may be paid for by higher tuition. In addition, contract negotiations may focus on a variety of matters in which students have a legitimate and vital interest, including class size, faculty-student ratios, faculty evaluation and curricular matters. Finally, the failure of negotiations might lead to a faculty strike which could interrupt students' education.

11. Standardized Pay. Standardized pay increases have a high priority among some unions and some faculty members who have been promoted more slowly than average. This policy could eliminate or minimize merit incentives and thereby prevent adequate rewards for outstanding service. This may lead to a lower standard of performance by some faculty members, especially if administrative evaluation of faculty deteriorates or is limited and tenure is strengthened. Outstanding professors may leave, and the standardized restrictions on starting salary may make it difficult to attract others of equal caliber. Standardized pay for most institutions, in the long run, means mediocre faculty.

12. Funding Problems. Collective bargaining may foster coordination problems in the funding process. Thus, a state university may reach an agreement with its faculty union, and find out subsequently that the state will not finance it. Such instances have caused strikes and near-strikes.

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SUGGESTED DISADVANTAGES (continued)

13. Loss of Some Diversity. Universities traditionally have been havens for diversity and individual rights. Yet, collective bargaining laws ordinarily call for exclusive bargaining agents - unions which have the exclusive right to bargain with management on salary, fringe benefits, working conditions, etc. Outstanding scholars may be barred from bargaining individually with institutions. Less mobility for faculty and more institutional rigidity could result.

14. Involuntary Contributions. Allied to the preservation of diversity and individuality is the financing of the bargaining agent. Where the union cannot obtain adequate financing from voluntary dues, it bargains for other means, such as an agency shop (where, as a condition of continued employment, each member of the bargaining unit is required to pay the union the equivalent of his share of union costs incurred in representing him). This may be an unacceptable restraint for many faculty members.

15. Loss of Traditional Faculty Rights. It is claimed that academic freedom and tenure could be lost at the bargaining table. Conceivably, these could be traded off for other advantages.

16. Loss of Self Determination. Under the collective bargaining laws, agencies outside the university can make the final determination as to who is a member of the faculty bargaining unit. There are often a number of contended cases, such as the case of non-teaching professionals, or part-time teachers. The outside agencies (the NLRB is the case of private institutions) have sometimes chosen to place such groups within the faculty unit. It is argued that this may impair faculty integrity. Such groups have interests which are not entirely similar to teaching faculty.

17. Loss of Self Governance. Academic freedom and institutional autonomy could be impaired by impasse resolution procedures. Some say that unionization places new strictures on institutions by resorting to outside arbitrators. It is argued that such arbitrators do not understand the unique characteristics of higher education.

18. Loss of Full Participation of Faculty. Some unions do not represent the broad spectrum of faculty simply because many faculty refuse to join the union, or to take part in union activities. Regardless of reason, the university suffers when any important segment of its faculty refuse to participate in campus governance.

19. Credibility. Under collegial governance, the faculty and administration can do their bargaining, e.g., over salaries, within the family, and then present a united front to the governing body. Under collective bargaining, the campus president cannot publicly support faculty demands for salary increases. When different points of view from two segments of the same campus are made public, the credibility of the institution and its needs can be undermined.

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